

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ROBERT WOLSCHLAGER,

Plaintiff,

v.

Case Number 05-10252-BC
Honorable Thomas L. Ludington

SGT. MICHAEL ANDERSON,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION, GRANTING DEFENDANT'S
MOTION TO FOR SUMMARY JUDGMENT, AND DISMISSING CASE**

This matter is before for the Court on a report issued by Magistrate Judge Charles E. Binder on January 22, 2007 recommending that the defendant's motion to dismiss, which the magistrate judge construed as a motion for summary judgment, be granted. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt

15] is **ADOPTED**, the defendants' motion for summary judgment [dkt # 11] is **GRANTED**, and the case is **DISMISSED WITH PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 12, 2007

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 12, 2007.

s/Tracy A. Jacobs
TRACY A. JACOBS